

**CITY COUNCIL OF THE CITY OF SAN DIEGO  
CLOSED SESSION DOCKET  
FOR  
TUESDAY, SEPTEMBER 13, 2005 AT 9:00 A.M.  
CITY ADMINISTRATION BUILDING  
COMMITTEE ROOM – 12<sup>TH</sup> FLOOR  
202 “C” STREET  
SAN DIEGO, CA 92101**

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**NOTE:** In accordance with the San Diego City Council Permanent Rule for Noticing and Conduct of Closed Session Meetings, adopted on February 28, 2005, a portion of the regular open meeting agenda of the City Council has been reserved for City Attorney comment, public comment, and City Council discussion of the content of this Closed Session Docket. **Please see the regular meeting Open Session Agenda to determine when such matters may be heard.**

**Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):**

**CS-1** *George Isbell, Jr. v. City of San Diego*  
United States District Court Case No. 98cv0688

DCA assigned: C. Lassman Rhamy

This matter is an action filed by George Isbella Jr. and G&B Emporia Inc., challenging the City's zoning ordinance for the location of Plaintiffs' adult entertainment business. The City Attorney will brief the City Council on the status of the matter in closed session and request appropriate action including seeking direction on Plaintiffs' most recent offer to settle the case.

**CS-2** *Save Our Heritage Organisation v. City of San Diego, et al.*  
(*Coronado Belt Line Railway*)  
San Diego Superior Court Case No. GIC837743

DCA assigned: J. Booth

This matter involves a lawsuit brought on behalf of Save Our Heritage Organization against the City of San Diego and City Council for abuse of discretion regarding the historical designation of the Coronado Belt Line Railway [Railway]. In December 2003, the Historical Resources Board [HRB] listed the Railway on the local Historical Register. Metropolitan Transit Development Board [MTDB] timely appealed the HRB's decision to City Council. After hearing and reviewing evidence presented at the September 7, 2004, council meeting, the City Council granted MTDB's appeal and overturned the Railway's historical designation. The City Attorney will be briefing City Council on the current status of the litigation and seeking direction from the Council on this timely matter.

**CS-3 *Valerie O' Sullivan v. City of San Diego, et al.***  
San Diego Superior Court Case No. GIC 826918

DCA assigned: D. Smith

Plaintiff challenges the City's use maintenance of the "Children's Pool" in La Jolla under the 1931 state tidelands trust. The Children's Pool and nearby "Seal Rock" areas have been the subject of public controversy for approximately ten years due to the increasing presence of harbor seals. Plaintiff claimed that the City has violated the terms of the state tidelands trust at the Children's Pool by failing to maintain the area as a "bathing pool for children." The Court filed its Final Statement of Decision on August 26, 2005, in which it found the City to be in breach of the 1931 state tidelands trust and its obligations as trustee under the trust. We seek to confer with Council regarding the current litigation.

**CS-4 *Sierra Club v. California Coastal Commission and City of San Diego***  
San Diego Superior Court Case No. GIC844081

DCA assigned: D. Smith

This case involves a writ of mandate challenging the California Coastal Commission's January 12, 2005, approval of the City's application for a vested rights determination for the designation of a swim-only area and the placement of buoys in the ocean adjacent to the kayak boat launch and La Jolla Beach and Tennis Club at La Jolla Shores Beach. In closed session, the City Attorney will update the City Council on the status of the litigation and seek direction on Petitioner's most recent offer to settle the case.

**CS-5 *In Re: SEC Investigation into City Bond and Disclosure Practices***

ACA assigned: D. McGrath

In closed session the City Attorney will discuss the SEC ongoing investigation into the City's bond and disclosure practices and a tentative draft consent decree.

**CS-6 *In re: United States Securities and Exchange Commission Investigation and United States Attorney investigation into City's Finances.***

ACA: A. Noone

In closed session the City Attorney will advise the Council regarding waiver of the attorney client privilege and the protection of the work product doctrine as it relates to subpoenas issued by the SEC and the U. S. Attorney.

**CS-7 *The Lincoln Club of San Diego v. The City of San Diego***  
United States District Court Case No. 05cv1609 LAB (JMA)

DCA assigned: D. Shanahan

Lincoln Club has filed a complaint in federal court and motion for preliminary injunction requesting declaratory relief and an order enjoining the City from enforcing SDMC sections 27.2936 and 27.2950. Plaintiff would argue that the spending limit of \$250/\$300 per contributing member in City Council and/or Mayoral elections violates its constitutional rights of freedom of speech and association. In closed session the City Attorney will brief the Mayor and Council on the merits of the complaint and motion for preliminary injunction.

**CS-8 *William J. McGuigan v. City of San Diego, et al.***  
San Diego Superior Court GIC 849883

ACA assigned: D. McGrath

This lawsuit was filed on behalf of a retired City employee against the City of San Diego requesting that the Court order the City to immediately pay all past unfunded pension liability to the retirement system. In closed session, the City Attorney will brief the City Council on the matter and request appropriate direction, including direction with regard to hiring outside counsel to assist on this matter.

**Conference with Legal Counsel - anticipated litigation - initiation of litigation, pursuant to California Government Code section 54956.9(c):**

**CS-9 Cable Franchise**

DCA assigned: P. Edmonson

In closed session the City Attorney will advise the Council on the potential of the initiation of litigation.